

REMARKS

A Request for a One (1) Month Extension of Time pursuant to 37 CFR §1.136(a) and (b) is attached hereto.

The above-captioned patent application has been carefully reviewed in light of the present Office Action to which this Amendment is responsive. Claims 2, 3, 8-11, 13, 14, 19-22, 24, 25, 28, 30, 31-33, 35, 37, 38, 40, 41, and 43-46 have been amended in an effort to further clarify and distinctly point out that which Applicants' regard as the present invention. Claims 1, 7, 12, 18, 23, 29, 34, 36, 42, and 47-49 have been canceled. To that end, no new matter has been added.

Claims 1-49 are pending in the present application. Claims 1, 7, 12, 18, 23, 29, 35, 36 and 42 have been rejected under certain prior art and particularly under 35 USC §102(e) as being anticipated by Liseo et al. (U.S. Publication No. 2001/0039053. Additionally, Claims 1, 12, 23 and 36-47 have been rejected under 35 USC §112, 2nd paragraph and formality objections have been raised regarding Claims 1-49.

Applicants' herein gratefully acknowledge the allowability of Claims 2-6, 8-11, 13-17, 19-22, 24-28, 30-34, 37-41 and 43-49 over the prior art of record. Applicants' have now made Claims 2, 8-11, 13, 19-22, 24, 30-33, 37, and 43-46 independent combining the base claims and any intermediary claims while canceling Claims 1, 7, 12, 18, 23, 29, 36, and 42. Therefore, it is believed that the above prior art rejections are moot and should be withdrawn. In addition, Claim 35 has been amended to now depend from allowable Claim 24.

Turning to the rejections under 35 USC 112, second paragraph, the Examiner has rejected Claims 1, 12, 23 and 36-47 for indefiniteness. As previously noted, each of Claims 1, 12, 23, 36, and 42 have been canceled by Applicants'. Moreover, Applicants' have amended each of the new independent claims to now positively recite that the relative velocity of liquid dispensed by the metering system is effected in terms of either method or apparatus for purposes of the present invention by means of the variable speed motor by either changing or modifying the fluid flow rate during only the dispensing step and not the aspiration portion of the metering

cycle wherein the change and/or modification results in at least one of a change and a modification to the variable fluid flow rate profile of the pump. It is further believed adequate physical structure is now present regarding the means “for modifying the flow rate profile” based on the above noted changes to the claims. Applicants’ have also eliminated the grammatical error that included redundancy as to the claiming of the “pump”, as previously recited in original Claims 1 and 12. To that end, Applicants’ apologize for the error wherein it was intended that the pump “motor” should have been added. Applicants’ have reviewed the claims in an effort to locate additional oversight errors of this type. It is believed that this amendment in combination with the cancellation of the above-noted claims now adequately cures the Section 112 rejection. Therefore, reconsideration is respectfully requested.

Finally and with regard to the formal objections noted by the Examiner relating to Claims 1-49 in toto. The gist of the Examiner’s arguments are that Claims 1-11 and 12-22 are identical and that Claims 23-35 and 36-47 are also nearly identical. To that end, Applicants’ have added structure relating to a clinical analyzer with regard to Claims 37-41 and 43-47 to distinguish same from Claims 24-28 and 30-35. Applicants’ have also added additional subject matter concerning the metering tip to further distinguish Claims 2-6 and 8-11 from Claims 13-17 and 19-22. It is believed no new matter has been added. Finally, Applicants’ herein note that Claims 3, 14, 25, 38 have been amended to more particularly and correctly denote that the pump piston velocity and not the motor velocity has been decreased at the end of the dispensing step. Reconsideration and withdrawal of the above objection is respectfully requested.

In summary, it is believed the above-captioned patent application is now in an allowable condition and such allowance is earnestly solicited.

If the Examiner wishes to expedite disposition of the above-captioned patent application, he is invited to contact Applicants’ representative at the telephone number below.

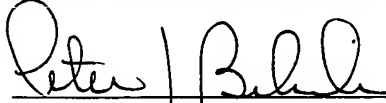
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Reply to Office Action of June 7, 2004

The Director is hereby authorized to charge any additional fees associated with this communication or credit any overpayment to Deposit Account No. 50-0289.

Respectfully submitted,

WALL MARJAMA & BILINSKI LLP

By:

A handwritten signature in black ink, appearing to read "Peter J. Bilinski", written over a horizontal line.

Peter J. Bilinski

Reg. No. 35,067

PJB/sca
Telephone: (315) 425-9000
Customer No.: 20874